



WASHINGTON STATE LIQUOR CONTROL BOARD

Notice of Proposed Rule Making #04-20

As part of our ongoing regulatory improvement efforts, the Washington State Liquor Control Board is considering amending the attached rules regarding **alcohol advertising, promotions, and label approval**.

The Liquor Control Board encourages you to give input on these topics. Following this comment period the agency will publish proposed revised rule language and hold at least one public hearing.

This rule making is filed with the Office of the Code Reviser in Washington State Register numbers 04-19-152 and 04-19-154 (<http://slc.leg.wa.gov/wsr/register.htm>).

Public Comment

Please forward your comments to the Liquor Control Board by mail, e-mail, or fax by **October 15, 2004**.

By mail: Rules Coordinator
Liquor Control Board
PO Box 43080
Olympia WA 98504-3080

By e-mail: rules@liq.wa.gov

By fax: 360-704-4921

Questions?

If you have any questions, please contact Teresa Berntsen, Rules Coordinator, at 360-664-1648 or by e-mail at rules@liq.wa.gov

September 27, 2004

To request this notice in an alternative format or to request other accommodation to participate, please call 360-664-1600 or AT&T's TTY relay service at 1-800-855-2880.

Rules and Policies Under Review:

WAC 314-52-005 Purpose and application of rules. (1) PREAMBLE: The purpose of this title is to provide reasonable regulations as to the kind, character and location of advertising of liquor, as authorized by RCW 66.08.060.

(2) No person engaged in business as a producer, manufacturer, bottler, importer, distributor, or retailer of liquor, directly or indirectly, or through an affiliate, shall publish or disseminate or cause to be published or disseminated in any media any advertisement of liquor, unless such advertisement is in conformance with these rules: *Provided*, That these provisions shall not apply to the publisher of any newspaper, magazine or similar publication, nor to the operator of any radio or television station unless such publisher or operator is engaged in business as a producer, manufacturer, bottler, importer, distributor, or retailer of liquor, directly or indirectly, or through an affiliate.

(3) The board holds each producer, manufacturer, bottler, importer, distributor, or retailer of liquor responsible for complying with the advertising rules of the Washington state liquor control board in any advertising material placed by them or on their behalf by their agents. If desired, advertising may be submitted prior to publication for an advisory opinion by the advertising coordinator of the Washington state liquor control board, but advisory opinions will be restricted to advertising material submitted by said producers, manufacturers, bottlers, importers, distributors, or retailers of liquor, or their agents.

(4) Liquor advertising materials, defined as institutional or educational advertising in WAC 314-52-015, intended for placement in retail outlets of the Washington state liquor control board shall be presented to the advertising coordinator of the Washington state liquor control board for prior approval before placement: *Provided, however*, That all other forms of advertising approved by the board advertising coordinator and which are acceptable to the board merchandising committee under the provisions of WAC 314-52-040 shall not be prohibited under this rule.

WAC 314-52-010 Mandatory statements. (1) Brand advertising of spirituous liquor by any manufacturer shall contain the following information:

(a) The name and address of the manufacturer responsible for its publication. (Street number may be omitted.)

(b) A conspicuous statement of the class to which the product belongs and the type thereof corresponding with the statement of class and type which is required by federal regulations to appear on the label of the product.

(c) A statement of the alcoholic content by proof, except that for cordials and liqueurs, gin fizzes, cocktails, highballs, bitters and other specialties, the alcoholic content may be stated in percentage by volume or by proof.

(d) In the case of distilled spirits (other than cordials, liqueurs and specialties) produced by blending or rectification, if neutral spirits have been used in the production thereof, there shall be stated the percentage of neutral spirits so used and the name of the commodity from which such neutral spirits have been distilled.

(e) In the case of neutral spirits or of gin produced by a process of continuous distillation, there shall be stated the name of the commodity from which such neutral spirits or gin has been distilled.

(2) Brand advertising of wine by any manufacturer or distributor shall contain the following information:

(a) The name and address of the manufacturer or distributor responsible for its publication. (Street number may be omitted.)

(b) A conspicuous statement of the class, type or distinctive designation to which the product belongs, corresponding with the statement of class, type, or distinctive designation which is required by federal regulation to appear on the label of the product.

(3) Brand advertising of malt beverages by any manufacturer, importer, or distributor shall contain the following information:

(a) The name and address of the manufacturer, importer or distributor responsible for publication of the advertisement. (Street number may be omitted.)

(b) A conspicuous statement of the class to which the product belongs, corresponding to the statement of class which is required by federal regulations to appear on the label of the product.

(4) Alcoholic content of beer. Retail licensees who choose to offer beer for sale at both less than four percent by weight and more than four percent by weight, alcoholic content, packaged in identical packages, shall be required to separate the two strengths of beer in their displays, and shall be required to identify by point-of-sale advertising which is the higher strength and which is the lower strength beer. Manufacturers, importers and distributors of such beer shall supply such shelf tickets free of charge to retail licensees: *Provided, however,* That no promotion of the higher alcoholic content shall be included in such advertising.

Note: For the purposes of considering label approval applications, WAC 314-52-015 is superseded by the "Interim Policy Regarding Approval of Beer, Wine and Spirits Labels" on page 9.

WAC 314-52-015 General. Institutional advertising shall mean advertising which promotes company or brand name identification, but does not directly solicit purchase or consumption of liquor. Educational advertising shall mean factual information on liquor, its manufacture, history, consumption and methods of ascertaining the quality of various types of liquors such as German wines, French cognacs, or other classifiable types of product. All liquor advertising shall be modest, dignified and in good taste and shall not contain:

- (1) Any statement or illustration that is false or misleading in any material particular.
- (2) Any statement, picture, or illustration which promotes overconsumption.
- (3) Any statement, picture, illustration, design, device, or representation which is undignified, obscene, indecent, or in bad taste.
- (4) Any statement, design, device, or representation of or relating to analyses, standards, or tests, irrespective of falsity, which is likely to mislead the consumer.
- (5) Any statement, design, device, or representation of or relating to any guaranty, irrespective of falsity, which is likely to mislead the consumer.

Nothing in this section shall prohibit the use of any enforceable guaranty in substantially the following form: "We will refund the purchase price to the purchaser if he is in any manner dissatisfied with the contents of this package."

(6) Any statement that the product is produced, blended, made, bottled, packed or sold under, or in accordance with, any authorization, law, or regulation of any municipality, county, or state, federal or foreign government unless such statement is required or specifically authorized by the laws or regulations of such government; and if municipal, state or federal permit number is stated, such permit number shall not be accompanied by any additional statement relating thereto.

(7) Any statement, design or device representing that the use of liquor has curative or therapeutic effects, if such statement is untrue in any particular, or tends to create a misleading impression.

(8) Any statement, picture, or illustration implying that the consumption of liquor enhances athletic prowess, or any statement, picture, or illustration referring to any known athlete, if such statement, picture, or illustration implies, or if the reader may reasonably infer, that the use of liquor contributed to such known athlete's athletic achievements.

(9) Any depiction of a child or other person under legal age to consume liquor; any depiction of objects, such as toys, suggestive of the presence of a child, nor any other depiction designed in any manner as to be especially appealing to children or other persons under legal age to consume liquor.

(10) Any reference to any religious character, sign or symbol, except in relation to kosher wines or where such are a part of an approved label.

WAC 314-52-020 Use of insignia or reference to liquor control board prohibited--Exception. No liquor advertising shall use any insignia that may be in use by the Washington state liquor control board, nor shall any such advertising refer to the Washington state liquor control board, except where required by federal law.

WAC 314-52-030 Liquor advertising prohibited in school publications. No liquor advertising shall be carried in any publication connected or affiliated with any elementary or secondary schools; nor shall any liquor advertising be connected with such schools when broadcast over radio or television: *Provided*, That institutional advertising, as defined in WAC 314-52-015, may be carried, if the board advertising coordinator.

WAC 314-52-040 Contests, competitive events, premiums and coupons. Liquor advertisements may offer consumers premiums or prizes, upon completion of any coupon, contest, or competitive event, which may or may not require proof of purchase of the advertised product: *Provided, however*, That contests or sweepstakes that offer prizes or premiums to consumers through a game of chance or random drawing, shall not require proof of purchase, and must comply with the requirements of RCW 9.46.020(14) regarding lotteries: *And provided further*, That no liquor advertisements by manufacturers, importers, or distributors may offer any premium or prize redeemable through a Washington state liquor store or any retail liquor outlet licensed by the state of Washington.

WAC 314-52-050 Sound truck advertising prohibited. No liquor advertising shall be permitted by use of sound trucks.

WAC 314-52-070 Outdoor advertising. (1) "Outdoor advertising" by manufacturers, importers, distributors, and retail licensees for these purposes shall include all signs visible to the general public, whether permanent or temporary, advertising the sale and service of liquor (excluding point-of-sale brand signs, which are defined and governed as otherwise provided in WAC 314-52-113) as well as trade name and room name signs.

(2) Outdoor signs shall be designed, installed, and used in a manner not offensive to the public, and shall comply with all liquor advertising rules. These rules include, but are not limited to:

(a) WAC 314-52-015(1), which:

- (i) Prohibits any statement or illustration that is false or misleading in any material particular;
- (ii) Prohibits any statement, picture or illustration which promotes overconsumption;
- (iii) Prohibits any statement, picture, illustration, design, device, or representation which is undignified, obscene, indecent, or in bad taste.

(b) WAC 314-52-110(1), which requires that every advertisement by a retail licensee shall carry the licensed trade name or the registered franchise name or the trademark name. The term "trade name" shall mean the "licensed trade name" as it appears on the issued license.

(3) Prior board approval is not required before installation and use of outdoor signs/advertising; however, outdoor signs/advertising (excluding outdoor readerboard messages and/or interior signs visible through a window of a premises) not in compliance with board rules will be required to be altered or removed at the licensee's expense. If prior approval is desired, the licensee, applicant or their agent may submit three copies to the board advertising coordinator for approval.

(4) No outdoor advertising of liquor shall be placed in proximity to schools, churches, or playfields used primarily by minors, where administrative body of said schools, churches, playfields, object to such placement, nor any place which the board in its discretion finds contrary to the public interest.

WAC 314-52-080 Novelty advertising. (1) Novelty advertising items shall include, but shall not be limited to, trays, lighters, blotters, post cards, pencils, coasters, menu cards, meal checks, napkins, clocks, wearing apparel, mugs, glasses, knives, lamp shades, or similar items on which the logo, liquor brand name or name of a manufacturer of an alcoholic beverage has been imprinted.

(2) No liquor manufacturer, distributor, or importer, or employee thereof, shall provide without charge, directly or indirectly, any novelty advertising items to any retail licensee; nor shall any retail licensee, or employee thereof, accept without charge any liquor novelty advertising items directly or indirectly, from any manufacturer, distributor, or importer, or employee thereof.

(3) A manufacturer, distributor, or importer, or employee thereof, may sell, and a retail licensee may purchase, for use, resale, or distribution on the licensed premises any novelty advertising items. The price thereof shall be not less than the manufacturer's, importer's, or distributor's cost of acquisition. In no event shall credit be extended to any retail licensee. The purchase by retail licensees of such items shall be supported by invoices or signed vouchers which shall be preserved for two years on premises available for immediate inspection by board enforcement officers.

(4) A manufacturer, importer, or distributor who sells novelty advertising items to retail licensees shall keep on file the originals or copies of all sales slips, invoices, and other memoranda covering all purchases of novelty advertising items from the supplier or manufacturer of such items and shall also keep on file a copy of all invoices, sales slips, or memoranda reflecting the sales to licensees or other disbursement of all novelty advertising items. Such records shall be maintained in a manner satisfactory to the board and must be preserved in the office of the manufacturer, importer, or distributor for a period of at least two years after each purchase or sale. Any manufacturer which does not maintain a principal office within the state shall, when requested, furnish the above required records at a designated location within the state for review by the board.

WAC 314-52-085 Programs and program folders. Programs and program folders, for the purpose of this section, shall mean brochures for use at sporting arenas which have, as a part of their operations, whether directly or indirectly, a retail licensed premises. No manufacturer, importer, distributor, or their agent, shall provide, without cost, directly or indirectly, programs or program folders for retail licensees: *Provided, however,* That sporting arenas as described above, or their agents may accept bona fide liquor advertising from manufacturers, importers, distributors or their agents, for publication in the program or program folder of the sporting arena: *Provided further,* That such advertising is paid for by said manufacturer, importer, distributor or their agent at the published advertising rate for all program or program folder advertisers, including nonliquor advertisers: *And also provided,* That such advertising shall carry with it no express or implied offer on the part of the manufacturer, importer, distributor or their agent, or promise on the part of the retail licensee whose operation is directly or indirectly part of the sporting arena, to stock or list any particular brand of liquor to the total or partial exclusion of any other brand.

WAC 314-52-090 Advertising sponsored jointly by retailers and manufacturers, importers, or distributors, prohibited. (1) The name of a retail licensee shall not appear in, or as a part of, or supplementary to, any advertising of a manufacturer, importer or distributor. The brand name of liquor may appear in or as a part of advertising by a retail licensee: *Provided,* That such advertising is upon the retail licensee's free initiative and no moneys or moneys' worth has been offered the retail licensee as an inducement to secure such mention by any manufacturer, importer, or distributor or their agent, or solicited by the retail licensee or his agent.

WAC 314-52-110 Advertising by retail licensees. (1) Every advertisement by a retail licensee shall carry the licensed trade name or the registered franchise name or the trademark name. The term "trade name" shall be defined as the "licensed trade name" as it appears on the license issued to the licensee: *Provided, however,* That such words as tavern, cafe, grocery, market, food store, food center, delicatessen, wine shop, beer parlor and other similar words used to identify the type of business licensed, and numbers used to identify chain licensees of the same trade name, shall neither be required nor prohibited as part of the trade name in advertisements: *And provided further,* That advertisements by public spirit, beer and wine restaurant licensees may also refer to cocktails, bar, lounge and/or the "room name." The term "room name"

shall be defined as the name of the room designated as the cocktail lounge and/or the dining room if both are in the same room.

(2) No retail licensee shall offer for sale any liquor for on premises consumption under advertising slogans such as "two for the price of one," "two for one drinks," "buy one--get one free," "two for \$ _____," nor any similar phrase or slogan where the express or implied meaning is that a customer, in order to receive a reduced price, would be required to purchase more than one drink or quantity of liquor at one time.

WAC 314-52-113 Brand signs and point-of-sale displays on retail licensed premises. Manufacturers, importers or distributors may furnish brand signs and point-of-sale material under the following conditions:

(1) The brand signs and point-of-sale material shall have no value to the retailer except as brand advertisement; such signs as those which provide illumination for cash registers, pool tables and other parts of the premises, have a functional value and are not authorized. The brand signs and point-of-sale material shall remain the property of, and be the responsibility of, the manufacturers, importers or distributors.

(2) The term "point-of-sale material" as used herein, shall include such manufacturer, importer or distributor-supplied items as display cards, placards, table tents, recipes, display bins, decalcomanias, price cards, shelf strips, product information pamphlets, bottle hangers, matches, scorecards, calendars, and other such brand advertising material for display at the point of sale.

(3) Giant inflatables, such as inflated beer cans, bottles, animals, and banners may be provided as point-of-sale by manufacturers, importers, or distributors to retailers for display purposes on their property, provided the following conditions are met:

- (a) All retail licensees are afforded equal opportunity to display item;
- (b) Novelty items as defined in WAC 314-52-080 are not provided by manufacturers, importers, or distributors to customers in conjunction with the display;
- (c) The display shall be removed if objected to by local officials, or if the board, in its discretion, finds it contrary to the public interest.

(4) Animal mascots and costumed individuals representing beer, wine, or liquor manufacturers may be provided as point-of-sale by manufacturers, importers, or distributors to retailers for display and promotion purposes on their property, provided the following conditions are met:

- (a) The costumed individual is limited to the manufacturer, importer, distributor, or employee thereof and the costumed individual's activities on-premises are limited to socializing with customers and not conducting any activity that the retail licensee would otherwise have to assign employees to;
- (b) All retail licensees are afforded equal opportunity for such displays;
- (c) Novelty items as defined in WAC 314-52-080 and including the purchase of drinks, are not to be provided to customers by the costumed individual in conjunction with such displays;
- (d) The costumed individual must comply with the regulations regarding lewd and obscene conduct (WAC 314-16-125);
- (e) If the board finds it contrary to the public interest, it may prohibit the use of the above-mentioned activities.

WAC 314-52-114 Advertising by retail licensees, offering for sale, or selling beer, wine or spirituous liquor at less than cost--Prohibited--Exceptions. (1) Beer, wine, or spirituous liquor shall not be advertised, offered for sale or sold by retail licensees at less than acquisition cost.

(2) The provisions of this section shall not apply to any sale made:

(a) In closing out in good faith the owner's stock or any part thereof for the purpose of discontinuing his trade in any such article or product and in the case of the sale of seasonal goods or to the bona fide sale of perishable goods to prevent loss to the vendor by spoilage or depreciation: *Provided*, Notice is given to the public thereof;

(b) When the goods are damaged or deteriorated in quality, and notice is given to the public thereof;

(c) By an officer acting under the orders of any court;

(d) In an endeavor made in good faith to meet the prices of a competitor selling the same article or product in the same locality or trade area and in the ordinary channels of trade.

WAC 314-52-115 Advertising by clubs--Signs. (1) Clubs shall not engage in any form of soliciting or advertising which may be construed as implying that the club operates a public spirit, beer and wine restaurant premises, a tavern open to the public, or that social functions at which club liquor may be consumed, are open to the public: *Provided, however,* Circularizing membership shall not be considered advertising, and where clubs provide lunch or dinner to the public, this may be advertised: *Provided further,* Such advertising must specify no liquor service is available.

(2) Clubs and/or their auxiliary organizations may advertise social or other club events to their membership through the public media: *Provided,* Such advertising is clearly directed to their membership only and cannot be construed as implying that the general public is welcome to attend.

(3) Advertising of the club functions by means of placards placed for public viewing shall be governed by the provisions of subsection (2) of this section.

(4) Advertising may be directed to the public generally in connection with events of special public interest such as Flag Day, Memorial Day, Veterans Day or such other occasions, under provisions set forth in WAC 314-40-080(3).

(5) Clubs desiring to have radio or television broadcasts originating from their licensed premises may do so: *Provided,* That such broadcasts consist only of entertainment or other matter which is in the public interest and may not contain any announcement of opening or closing hours, any invitation to visit the club, or any statement which may be construed as advertising or any implication that the club is operated as a public place. The only reference to the club during such broadcasts shall be limited to a statement at the opening and closing of the program as originating from the club quarters.

WAC 314-20-020 Beer labels -- Certificate of label approval required -- Labels to be submitted. (1) Every bottle or can containing beer intended for sale in the state of Washington shall bear a label in compliance with RCW 66.28.120. No beer shall be imported or sold within the state of Washington until the licensed brewery, or certificate of approval holder, shall have obtained from the board a certificate of label approval for such beer.

(2) A request for certificate of label approval must be submitted on a form prescribed by the board which is one copy of the federal certificate of label approval for such beer, issued by the Bureau of Alcohol, Tobacco, and Firearms, U.S. Treasury Department.

(3) Any change in label or product which requires reissuance of federal certificate of label approval, must also be submitted to the board, in accordance with the foregoing provisions of this regulation.

(4) No label shall be used that is misleading.

(5) Every producer, importer, or distributor of beer shall, upon request of the board or its authorized representative, furnish without cost to the board, samples of any brand of beer upon its premises for the purpose of analysis in order to determine whether the beer conforms to commercial standards.

(6) No label will be approved which is designed to be especially appealing to children or other persons under legal age to consume. Persons who appear to be under legal age to consume may be depicted on a label when, in the discretion of the board, the depiction is dignified and does not promote illegal consumption of liquor.

(7) For strong beer, the label must contain the beer's alcohol content, stated in terms of percentage of alcohol by volume. Per RCW 66.04.010, strong beer means any malt beverage that contains more than eight percent of alcohol by weight, which is approximately ten percent of alcohol by volume.

WAC 314-24-090 Wine labels. (1) Every package or container of wine intended for sale within the state of Washington shall bear a label in compliance with RCW 66.28.110. Such label shall show:

- (a) The brand name of the wine.
- (b) Class, type or other designation.
- (c) The name and address of the bottler or packager, which shall be stated as follows "Bottled by" Where a bottler or packager has made not less than 75% of the wine in a particular package or container by crushing the grapes or other materials, fermenting the must and clarifying the resulting wine, there may be stated in lieu of the words "bottled by" the words "manufactured and bottled by" or "produced and bottled by." In addition to the name and address of the bottler or packager, but not in lieu thereof, there may be stated the name and address of the manufacturer or producer.

(d) The alcoholic content of the wine by volume, stated as provided in either (i) or (ii) of this subsection:

- (i) "Alcohol% by volume."
- (ii) "Alcohol% to% by volume."

(e) The net contents of the package or container: Provided, That the net contents need not be stated on any label if the net contents are displayed by having the same blown or branded in the package or container as the brand label, in letters or figures in such manner as to be plainly legible under ordinary circumstances, and such statement is not obscured in any manner in whole or in part.

(2) No label shall be used until after the same has been submitted to, and has received a written approval of, the board (see WAC 314-24-040).

(3) No label shall be used that is misleading.

WAC 314-24-040 Wine labels--Certificate of label approval required--Labels to be submitted. No wine shall be imported or sold within the state of Washington until the certificate of approval holder, or domestic winery, or United States importer of foreign wine, shall have obtained from the board a certificate of label approval for such wine.

(1) A request for certificate of label approval must be submitted to the board on forms prescribed by the board, together with the following:

(a) Two labels of the brand and type for which approval is requested for wines under seven percent alcohol by volume; and

(b) One copy of the federal certificate of label approval for such wine which has been issued by the Bureau of Alcohol, Tobacco, and Firearms, U.S. Treasury Department.

(2) Any change in label or product which requires reissuance of federal approval under the provisions of 27 CFR Part 4, must also be submitted to the board in accordance with the foregoing provisions of this regulation.

(3) Every producer, importer, bottler, or distributor of wine shall, upon request of the board or its authorized representative, furnish without cost to the board, samples of any brand of wine upon its premises for the purpose of analysis in order to determine whether the wine conforms to the quality standards set by the board in WAC 314-24-060 and conforms with commercial standards.

(4) No label shall be used that is misleading.

(5) No label will be approved which is designed to be especially appealing to children or other persons under legal age to consume. Persons who appear to be under legal age to consume may be depicted on a label when, in the discretion of the board, the depiction is dignified and does not promote illegal consumption of liquor.

Liquor Control Board Interim Policy

Subject of policy: Interim Policy Regarding Approval of Beer, Wine and Spirits Labels

Effective date: March 1, 2000, to be in effect until rule making on this subject is completed.

Authority for policy: RCW 66.08.030, RCW 66.24.010(1), RCW 66.24.010(3)(a), RCW 66.24.120, WAC 314-12-030, WAC 314-12-033, WAC 314-12-020(1)

Purpose statement:

The purpose of the Liquor Control Board's interim policy regarding criteria for approval of liquor advertising is to change and clarify the for the Liquor Control Board's approval of beer, wine, and spirit labels.

Interim Policy Statement:

When alcohol beverage labels are submitted to the Board's Licensing and Regulation Division for approval, staff will use the following criteria in lieu of WAC 314-52-015 subsection (1) through subsection (6), and WAC 314-52-020:

Beer, wine, or spirit labels on products sold in the state of Washington may not contain any statement, picture, or illustration that:

- a) is false or misleading;
- b) promotes overconsumption of liquor;
- c) shows a person who appears to be under 21 year of age consuming alcohol; or
- d) uses the Washington State Liquor Control Board's seal or refers to the Washington State Liquor Control Board, except where required by federal law.

If a label claims the alcohol product has a curative or therapeutic effect or enhances health or performance, the licensee must:

- a) cite, on the label, the name, author, and date of the research or study supporting the claim, and
- b) provide a copy of this research or study to the Board's Licensing and Regulation Division.

Liquor Control Board Policy Number 1-02

Subject of policy: Use of licensed sports team name and trademark

Effective date: April 18, 2000

Ending date: To remain effective until the completion of rule making on chapter 314-52 WAC

Purpose statement:

The purpose of Liquor Control Board Policy 1-02 is to allow liquor manufactures, importers, distributor, or their agents to use the name and trademarks of a professional sports team in their advertising and promotion, under limited and defined circumstances.

Policy Statement:

Until rule making on chapter 314-52 WAC is completed (which outlines the guidelines for liquor advertising) staff will use the following policy:

Professional sports teams who hold a retail liquor license or their agents may accept bona fide liquor advertising from manufacturers, importers, distributors or their agents for use in the sporting arena and

may license the manufacturer, importer, distributor, or their agents to use the name and trademarks of the professional sports team in their advertising and promotions, under the following conditions.

- Such advertising must be paid for by said manufacturer, importer, distributor or their agent at the published advertising rate or at a reasonable fair market value.
- Such advertising may carry with it no express or implied offer on the part of the manufacturer, importer, distributor or their agent, or promise on the part of the retail licensee whose operation is directly or indirectly part of the sporting arena, to stock or list any particular brand of liquor to the total or partial exclusion of any other brand.

Liquor Control Board Policy

Subject of policy: Advertising v. Information for the Purpose of Determining the Extension of Money's Worth (a Tied House violation)

Effective date: July 11, 2001

Ending date: To remain in effect until rule making is completed on the agency's advertising and Tied House-related rules

Source of authority: RCW 66.08.010 Tied House law
RCW 66.08.060 Advertising rule making authority
RCW 66.08.030 General rule making authority

Purpose statement:

The purpose of this Liquor Control Board (LCB) is to distinguish between "advertising" and "information" for the purposes of determining compliance with the prohibition against the extension of money's worth between a manufacturer, importer, or distributor and a retailer in RCW 66.28.010 (the "Tied House" law).

Policy statement:

Liquor Control Board Staff will use this Policy until rule making is completed on the agency's rules regarding advertising and Tied House-related issues. This interim policy will supersede WAC 314-52-090(1).

For the purposes of enforcing the prohibition against the extension of money or money's worth between a manufacturer, importer, or distributor and a retailer, the LCB will distinguish between "advertising" and the providing of "information." The LCB will continue to consider advertising as money's worth, while information will not be considered money's worth.

To be in compliance with RCW 66.28.010, a manufacturer, importer, or distributor can list information about a retailer, but cannot advertise on behalf of a retailer. Providing information means communicating facts about where a product can be purchased (physical location), without an additional description of the retail premises or an inducement to purchase at the retail premises.

A manufacturer, importer, or distributor's electronic or hard copy publication or information piece that mentions a retailer must meet the following guidelines for the LCB to consider the item "information" and not "advertising:"

- The piece that lists the retailers must be a response to a direct inquiry from a consumer to the manufacturer, importer, or distributor, received by telephone, by mail, by an electronic inquiry, or in-person.
- The piece must list at least two or more unaffiliated retailers.

- The information listed on the piece may be in text format only (no graphics or images).
- The piece may only list the following information about the two or more unaffiliated retailers: the name of retail premises and the premises' address, web site, e-mail address, and telephone number.
- The information piece cannot contain other descriptive information about the manufacturer, importer, or distributor's product(s) or the retailer's premises. For instance, the piece cannot include product prices, a description of the retail premises' services, etc.
- The listings for each retailer must be in identical format.
- If web site--A manufacturer, importer, or distributor's web site cannot include a link to a retail premises' web site.
- The listing of a retail licensee cannot be the result of an inducement by any party or the result of any financial or barter/trade agreement between a retailer and a manufacturer, importer, or distributor.
- The manufacturer, importer, or distributor must pay all costs for the production of the information piece.

If the manufacturer holds both non-retail and retail privileges on the same premises or at an off-site tasting location as authorized by RCW 66.24.170(4), the manufacturer may provide information about products it produces.